HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE C.Y. SOMAYAJULU

Writ Petition No. 26859 of 2005

Between:

B. Hari Babu

… Petitioner.

And

The District Judge, Kurnool

and another.

… Respondents.

:: ORDER::

Counsel for the petitioner : Sri V.R. Reddy Kovvuru

Counsel for the respondents : Smt. M. Bhaskara Lakshmi, standing counsel for A.P. High Court.

December 16, 2005

Per G.S. Singhvi, CJ.

Through this petition filed under Article 226 of the Constitution of India, the petitioner seeks to enforce the direction given by the Division Bench vide its order dated 18.8.1998 passed in W.P. No. 18847 of 1998.

It is borne out from the record that the petitioner had worked as a Class IV employee in the Court of Special Judicial Second Class Magistrate (Railways), Nandyal, Kurnool District between 16.3.1995 and 11.3.1996 with one day's break. In 1998, he filed W.P. No. 18847 of 1998 for issuance of a writ in the nature of mandamus directing respondents to appoint him on the basis of post of Attender. The same was disposed of by the Division Bench on August 18, 1998 with the direction that as and when the petitioner applies for appointment in future, his candidature should be considered and he be given preferential treatment because he had earlier worked for almost one year. On 5.9.2000, District Judge, Kurnool notified the posts of Attenders. The petitioner applied for selection. He was called for interview on 23.2.2005. He was interviewed by the committee but his name does not figure in the list of selected candidates. This has prompted him to seek intervention of the Court.

Learned counsel for the petitioner argued that the non-consideration of the petitioner's candidature on preferential basis in terms of the direction given by the Division Bench on 18.8.1998 amounts to violation of his fundamental right of equality guaranteed under Articles 14 and 16 of the Constitution. Learned counsel submitted that directions given by the Division Bench should be construed as casting an obligation on respondent No.1 to select him.

In our opinion, there is no substance in the argument of the learned counsel. The petitioner has not levelled any allegation of mala fides against respondent No.1. He has also not alleged that the selection made by respondent No.1 is tainted by arbitrariness or that the recommendation made by the selection committee is vitiated due to consideration of extraneous factors. In our opinion, in the absence

of any allegation of mala fides or patent arbitrariness, the Court cannot nullify the recommendation made by the selection committee which appears to have been accepted by respondent No.1.

There is another reason for our disinclination to entertain the petitioner's challenge to the selection made for appointment to the post of Attenders in district Kurnool. He has not impleaded the selected candidates as party respondents. If his plea is to be accepted, at least one of the candidates would be displaced from the selected list and without hearing that candidate, the Court cannot pass any order prejudicially affecting his right, interest or status.

For the reasons stated above, the writ petition is dismissed. However, we give liberty to the petitioner to approach respondent No.1 by making representation for disclosing the reason for his non-selection for appointment to the post of Attender.

G.S. SINGHVI, CJ.

C.Y. SOMAYAJULU, J.

December 16, 2005.

MVB.